

FILED  
MISSOULA, MT

2006 DEC 18 PM 5 24

PATRICK E. DUFFY

BY

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

WILLIAM J. NORDHOLM,	)	CV 05-58-H-DWM-CSO
	)	
Petitioner,	)	
	)	
vs.	)	ORDER
	)	
JAMES MacDONALD, Warden;	)	
MIKE MAHONEY, Warden	)	
	)	
Respondents.	)	
	)	

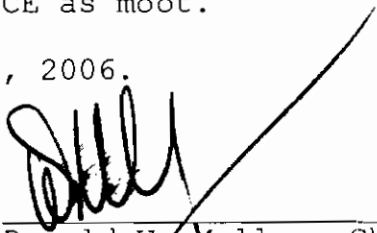
United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendations in this matter on November 22, 2006. The parties did not timely object and so have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

This case is before the Court on a Petition for Writ of Habeas Corpus. On October 19, 2006, Nordholm was ordered to show

cause why his Petition should not be dismissed as moot on the grounds that he has been released. In his response, Nordholm conceded that he "is now experiencing freedom tantamount to his initial release in October 2003." Based on this acknowledgment Judge Ostby found the Petition moot pursuant to Spencer v. Kemna, 523 U.S. 1 (1998), and recommended that the Petition be dismissed. I can find no clear error with her Findings and Recommendations and adopt them in full.

Accordingly, IT IS HEREBY ORDERED that the Petition (Doc. No. 1) is DISMISSED WITHOUT PREJUDICE as moot.

DATED this 18 day of December, 2006.

  
\_\_\_\_\_  
Donald W. Molloy, Chief Judge  
United States District Court  
